

STATE OF NEW JERSEY
BUREAU OF SECURITIES
153 HALSEY STREET
NEWARK, NEW JERSEY 07102

IN THE MATTER OF

PERPETUAL SECURITIES, INC.
CRD # 36841

CATHY Y. HUANG
CRD # 2370253

YOUWEI PAUL XU
CRD # 2370245

ADMINISTRATIVE COMPLAINT

To: Perpetual Securities, Inc.
P.O. Box 801
Holmdel, New Jersey 07733-0801

Cathy Y. Huang
21 Crimson King Drive
Holmdel, New Jersey 07733

Youwei Paul Xu
P.O. Box 801
Holmdel, New Jersey 07733-0801

Pursuant to the authority granted to the Chief of the New Jersey Bureau of Securities (the “Bureau Chief”) by the Uniform Securities Law (1997) (N.J.S.A. 49:3-47 to -67) (the “Securities Law”), more specifically N.J.S.A. 49:3-54(b), N.J.S.A. 49:3-56, 49:3-58(a)(2)(ii), N.J.S.A. 49:3-58(a)(2)(iv), N.J.S.A. 49:3-59(b), N.J.S.A. 49:3-69, and N.J.S.A. 49:3-70.1, as well as the applicable Regulations thereunder, and after investigation, careful review and due consideration of the facts set forth below, the Bureau Chief has determined that good cause has been shown to: (1) revoke the broker-dealer registration of Perpetual Securities, Incorporated; (2) revoke the securities agent

registrations of Carol Y. Huang and Youwei Paul Xu; and (3) assess civil monetary penalties against Perpetual Securities, Incorporated, Carol Y. Huang and Youwei Paul Xu (collectively referred to as "Respondents") for their violations of the Securities Law as stated herein.

FINDINGS

I. Defendants

1. Perpetual Securities, Incorporated ("Perpetual"), CRD # 36841, which maintains a mailing address of P.O. Box 801, Holmdel, New Jersey 07733-0801, was registered with the New Jersey Bureau of Securities (the "Bureau") as a broker-dealer from November 6, 1995 through January 21, 2004. From November 25, 2002 through May 16, 2003, Perpetual's membership with the National Association of Securities Dealers (the "NASD") was suspended for failing to pay an arbitration award rendered by the NASD on November 14, 2000. During this period of suspension, Perpetual was not permitted to engage in the offer, sale or purchase of securities in or from New Jersey.
2. Cathy Y. Huang ("Huang"), CRD # 2370253, resides at 21 Crimson King Drive, Holmdel, New Jersey 07733. Huang was a part-owner, Vice President and Compliance Officer of Perpetual at all times relevant to this complaint, and was registered with the Bureau as an agent of Perpetual from December 15, 1995 until December 16, 2003. Huang is a control person and owner of more than 25% (but less than 50%) of Perpetual.

3. Youwei Paul Xu ("Xu"), CRD # 2370245, has a mailing address identified as P.O. Box 801, Holmdel, New Jersey 07733-0801. Xu was the Chief Executive Officer and President of Perpetual and part owner at all times relevant to this complaint, and was registered with the Bureau as an agent of Perpetual from July 5, 1999 until December 16, 2003. Xu is a control person and owner of more than 25% (but less than 50%) of Perpetual. According to Huang, Xu and Huang are married.

II. Background

4. On or about April 3, 1998, two clients of Perpetual (the "Arbitration Claimants") filed a Statement of Claim with the NASD wherein the Arbitration Claimants asserted the following causes of action: unsuitability, failure to carry out the Arbitration Claimants' instructions to stop trading on their account, unauthorized trading, false and misleading statements, and omissions.
5. On November 14, 2000, an NASD Arbitration Panel issued a decision against Perpetual, awarding the Arbitration Claimants \$21,000 in compensatory damages (the "Arbitration Award").
6. On December 11, 2000, Perpetual filed a motion to vacate the Arbitration Award in the United States District Court for the Southern District of New York ("District Court"). The District Court denied Perpetual's motion for lack of subject matter jurisdiction.
7. Perpetual appealed the District Court's ruling to the Second Circuit Court of Appeals ("Circuit Court"). On May 9, 2002, the Circuit Court affirmed the District Court's denial of Perpetual's motion and remanded the matter to the District Court with instructions to dismiss the case. The Circuit Court remanded because the District Court granted a cross-motion by

the Arbitration Claimants to confirm the Arbitration Award, which the Circuit Court reversed on the grounds that the District Court lacked subject matter jurisdiction to confirm or reverse the Arbitration Award. *Perpetual Securities, Inc. v. Tang*, 290 F.3d 132 (2d Cir. 2002).

8. In a March 4, 2004 interview conducted by the Bureau's staff, Huang acknowledged that she was aware of the Federal Court proceedings, stating that she "lost" in both Federal Courts. Nevertheless, Perpetual still refused to pay the Arbitration Award. As a result of this failure to pay, the NASD sent a letter to Perpetual in June 2002, ordering Perpetual to pay the Arbitration Award or risk being suspended by the NASD.

III. Perpetual's Registration Is Suspended by the NASD For Failure to Honor The Arbitration Award

9. As a result of Perpetual's continued refusal to honor the Arbitration Award, the NASD suspended Perpetual's registration at a hearing held on November 25, 2002 (the "Suspension Hearing"), until such time as Perpetual provided the NASD with documentary evidence that: (1) the Arbitration Award was paid in full; (2) Perpetual and the Arbitration Claimants entered into a settlement agreement; or (3) Perpetual commenced bankruptcy proceedings or the debt underlying the Arbitration Award was discharged by a United States Bankruptcy Court. Perpetual was represented at the Suspension Hearing by an attorney, Kevin K. Tung, Esquire.
10. Following the Suspension Hearing, Andrew H. Perkins, the NASD Hearing Officer assigned to the Perpetual matter, sent three packages, via Federal Express, directly to Cathy Huang, as an executive officer of Perpetual, on the following dates and to the following mailing addresses: (1) November 25, 2002, to Cathy Huang, Executive Vice President, Perpetual Securities, Incorporated, 221 Canal Street, Suite 509, New York, New York 10013; (2)

December 2, 2002, to Cathy Huang, Perpetual Securities, Incorporated, 21 Crimson King Drive, Holmdel, New Jersey 07733; and (3) December 11, 2002, to Cathy Huang, Perpetual Securities, Incorporated, 21 Crimson King Drive, Holmdel, New Jersey 07733. Each of these Federal Express packages contained documents referencing the Suspension Hearing.

11. Perpetual took immediate action to lift the NASD suspension following the Suspension Hearing by appealing the suspension to the Securities and Exchange Commission ("SEC") on November 28, 2002, and asking the NASD to stay the suspension on November 29, 2002. The SEC denied Perpetual's request for a stay on December 13, 2002.¹

IV. Perpetual Continues to Engage in the Offer or Sale of Securities In Violation of the NASD Suspension Order

12. Despite the fact that Perpetual received ample notice that it was suspended from offering or selling securities as a result of the NASD suspension and was taking steps to stay the suspension order, Perpetual continued to act as a broker-dealer by offering or selling securities after November 25, 2002, and receiving commissions therefrom. According to records provided to the Bureau by Perpetual's clearing firm, Advantage Trading Group Incorporated ("Advantage"), CRD # 39118, Perpetual engaged in buying and selling transactions for customers throughout the period that the firm was suspended by the NASD. From November 25, 2002 until May 16, 2003, Perpetual engaged in over 600 transactions, and received commissions therefrom, in violation of the NASD suspension order.²

¹After a hearing on the matter, the SEC issued an opinion on September 3, 2003, upholding the NASD suspension.

²Many of the trades that were produced by Advantage in response to the Bureau's request for copies of "All order tickets, confirmations and or account statements for Perpetual Securities that were transacted through Advantage Trading Group, Incorporated," are listed under the

V. The Bureau's Investigation

13. The Bureau commenced its investigation into the above referenced activity in November 2003. During the Bureau's initial investigation, the Bureau's staff telephoned Huang regarding Perpetual's business activities during the period it was suspended by the NASD. On November 25, 2003, Huang FAXed a written response to the Bureau admitting that Perpetual engaged in the securities business between November 25, 2002 and January 15, 2003, and claiming Perpetual was unaware of the suspension until January 15, 2004.
14. On December 16, 2003, Perpetual filed a Form BDW requesting withdrawal from broker-dealer registration. The Form was signed by Huang as Executive Vice President of Perpetual. Despite the fact that Huang personally had at least one conversation with Bureau staff prior to December 16, 2003, and even provided a written response to the Bureau's investigating into Perpetual's actions during the period it was suspended by the NASD, Perpetual failed to check "yes" in response to the question "[i]s the broker-dealer now the subject of or named in any investment-related Investigation?"
15. Huang was interviewed by Bureau staff on March 4, 2004. At this interview, Huang did not deny that Perpetual engaged in transactions between November 25, 2002 and January 14, 2003. Rather, Huang asserted that she had not received notice of the NASD suspension. Huang also claimed to have no knowledge of Perpetual's appeals to the SEC and the NASD because Perpetual's Attorney, Kevin K. Tung, Esquire, was handling the matter. These statements are directly contradicted by Federal Express's records, which show that no fewer than three correspondences referencing the Suspension Hearing were sent by the NASD to

customer's name rather than Perpetual's name and include the amount of commissions Perpetual received from the transaction.

Huang, as an officer of Perpetual, between November 25, 2002 and December 11, 2002.

16. According to Huang, on January 14, 2003, an NASD employee visited her home in Holmdel, New Jersey, to personally inform her that Perpetual was suspended and could not act as a broker-dealer until the firm was in compliance with the November 25, 2002 suspension order. Following this meeting, Huang claims that all of Perpetual's customers were contacted and informed that Perpetual could no longer make trades in their accounts. These customers were purportedly told to contact Perpetual's clearing firm, Advantage, if they wished to make any trades in the future. Huang represented to Bureau staff that all trades made in the accounts of Perpetual customers from January 14, 2003 until the day the NASD suspension was lifted (May 16, 2003), were made by and through Advantage, not Perpetual.³ According to the records provided by Advantage, over 300 additional transactions were effected in Perpetual customer accounts during this time period.
17. When the Bureau's staff asked Huang to produce books and records to support her claims during the March 4, 2004 interview, Huang stated that Perpetual no longer maintained these records. Huang explained that all records relating to Perpetual's business were destroyed when she loaded them into a vehicle and drove the records to a garbage dump, where they were discarded.

³Advantage is currently the subject of an NASD action as well. On March 8, 2004, the NASD issued a press release announcing that the NASD charged Advantage with "creating false trading records to mislead" an NASD investigation.

COUNT I

PERPETUAL WAS THE SUBJECT OF AN ORDER OF A
SELF-REGULATORY ORGANIZATION SUSPENDING IT
FROM A NATIONAL SECURITIES ASSOCIATION
N.J.S.A. 49:3-58(a)(1), (2)(vi)

18. The preceding paragraphs are incorporated by reference as though fully set forth herein.
19. The Bureau Chief is authorized to revoke or suspend the registration of a broker-dealer whose registration has been suspended by a self-regulatory organization, where the Bureau Chief determines that revocation or suspension is in the public interest, pursuant to N.J.S.A. 49:3-58(a)(1) and (2)(vi).
20. The NASD suspended Perpetual's registration on November 25, 2002 for failure to pay the Arbitration Award, as explained in greater detail above.
21. Revoking a broker-dealer's registration is in the public interest where the broker-dealer's registration with a self-regulatory organization has been suspended for failure to pay an arbitration award.
22. In the present case, revoking Perpetual's broker-dealer registration is in the public interest and necessary for the protection of investors.

COUNT II

RESPONDENTS CONTINUED TO ENGAGE IN THE
SALE OF SECURITIES WHILE SUSPENDED FROM THE
SECURITIES INDUSTRY BY THE NASD IN VIOLATION
OF THE SECURITIES LAW

N.J.S.A. 49:3-56; N.J.S.A. 49:3-58(a)(1), (2)(ii); N.J.S.A. 49:3-70.1

23. The preceding paragraphs are incorporated by reference as though fully set forth herein.
24. Perpetual's registration with the NASD was suspended from November 25, 2002 until May 16, 2003. During this period of suspension, Perpetual was not permitted to engage in the

offer, sale or purchase of securities in or from New Jersey. Notwithstanding the fact that Perpetual was suspended from offering, selling or purchasing securities from November 25, 2002 until May 16, 2003, over 600 transactions were effected in Perpetual customer accounts during Perpetual's period of NASD suspension. Perpetual received commissions from many of the trades conducted during the November 25, 2002 through May 16, 2003 suspension period. Each transaction constituted unlawful activity by a broker-dealer in violation of N.J.S.A. 49:3-56 and the NASD suspension.

25. The Bureau Chief is authorized to revoke or suspend the registration of a broker-dealer or agent of a broker-dealer upon a finding that they have willfully violated or willfully failed to comply with any provision of the Securities Law or have willfully, materially aided others in such conduct, where the Bureau Chief determines that revocation or suspension is in the public interest, pursuant to N.J.S.A. 49:3-58(a)(1) and (2)(ii).
26. Pursuant to N.J.S.A. 49:3-70.1, any person who violates any provision of the Securities Law shall be liable for up to \$10,000 for the first violation, and up to \$20,000, per violation, for each subsequent violation.
27. Based upon the foregoing, revoking Perpetual's broker-dealer registration and the securities agent registrations of Huang and Xu, as well as the assessment of civil monetary penalties against each Respondent, pursuant to N.J.S.A. 49:3-70.1, is in the public interest and necessary for the protection of investors.

COUNT III

HUANG AND XU, AS SENIOR EXECUTIVES AND
CONTROL PERSONS OF PERPETUAL, FAILED TO
MAINTAIN BOOKS AND RECORDS FOR THREE
YEARS IN VIOLATION OF THE SECURITIES LAW
N.J.S.A. 49:58(a)(1), (2)(ii); N.J.S.A. 49:3-59(b); N.J.S.A. 49:3-70.1

28. The preceding paragraphs are incorporated by reference as though fully set forth herein.
29. In her March 4, 2004 interview with the Bureau's staff, Huang admitted that she intentionally destroyed all records relating to Perpetual's business activities by loading them into a vehicle, driving to a garbage dump, and discarding them. Huang's actions violate N.J.S.A. 49:3-59(b), which requires every registered broker-dealer and investment adviser to make and keep such accounts, correspondence, papers, books, and records as the Bureau Chief prescribes and to make such records accessible to the Bureau for at least three years.
30. The Bureau Chief is authorized to revoke or suspend the registrations of a broker-dealer and agents of a broker-dealer upon a finding that they have willfully violated or willfully failed to comply with any provision of the Securities Law or have willfully, materially aided others in such conduct, where the Bureau Chief determines that revocation or suspension is in the public interest, pursuant to N.J.S.A. 49:3-58(a)(1) and (2)(ii).
31. Pursuant to N.J.S.A. 49:3-70.1, any person who violates any provision of the Securities Law shall be liable for up to \$10,000 for the first violation, and up to \$20,000, per violation, for each subsequent violation.
32. Based upon the foregoing, revoking Perpetual's broker-dealer registration and the securities agent registrations of Huang and Xu, as well as the assessment of civil monetary penalties against each Respondent, pursuant to N.J.S.A. 49:3-70.1, is in the public interest and necessary for the protection of investors.

COUNT IV

HUANG MADE FALSE AND MISLEADING STATEMENTS TO
BUREAU STAFF IN CONNECTION WITH AN INVESTIGATION
N.J.S.A. 49:3-54; N.J.S.A. 49:3-58(a)(1), (2)(ii); N.J.S.A. 49:3-70.1

33. The preceding paragraphs are incorporated by reference as though fully set forth herein.
34. Huang's statement, that she was unaware the NASD suspended Perpetual's registration until January 14, 2003, constitutes a violation of N.J.S.A. 49:3-54, because the statement was materially false and misleading at the time it was made and is directly contradicted by documentary evidence.
35. The Bureau Chief is authorized to revoke or suspend the registration of a broker-dealer agent upon a finding that she has willfully violated or willfully failed to comply with any provision of the Securities Law or has willfully, materially aided others in such conduct, where the Bureau Chief determines that revocation or suspension is in the public interest, pursuant to N.J.S.A. 49:3-58(a)(1) and (2)(ii).
36. Pursuant to N.J.S.A. 49:3-70.1, any person who violates any provision of the Securities Law shall be liable for up to \$10,000 for the first violation, and up to \$20,000, per violation, for each subsequent violation.
37. Based upon the foregoing, revoking Huang's registration, as well as the assessment of civil monetary penalties against Huang, pursuant to N.J.S.A. 49:3-70.1, is in the public interest and necessary for the protection of investors.

COUNT V

PERPETUAL AND HUANG MADE FALSE AND MISLEADING STATEMENTS IN A DOCUMENT FILED WITH THE BUREAU N.J.S.A. 49:3-54; N.J.S.A. 49:3-58(a)(1), (2)(ii); N.J.S.A. 49:3-70.1

38. The preceding paragraphs are incorporated by reference as though fully set forth herein.
39. Perpetual filed a Form BDW on December 16, 2003. On the Form BDW, which was signed by Huang in her capacity as Executive Vice President of Perpetual, the firm failed to check “yes” in response to the question “[i]s the broker-dealer now the subject of or named in any investment-related Investigation?” This constitutes a violation of N.J.S.A. 49:3-54 because the statement was made in a document filed with the Bureau and was materially false and misleading at the time it was made.
40. The Bureau Chief is authorized to revoke or suspend the registration of a broker-dealer and agents of a broker-dealer upon a finding that they have willfully violated or willfully failed to comply with any provision of the Securities Law or have willfully, materially aided others in such conduct, where the Bureau Chief determines that revocation or suspension is in the public interest, pursuant to N.J.S.A. 49:3-58(a)(1) and (2)(ii).
41. Pursuant to N.J.S.A. 49:3-70.1, any person who violates any provision of the Securities Law shall be liable for up to \$10,000 for the first violation, and up to \$20,000, per violation, for each subsequent violation.
42. Based upon the foregoing, revoking Perpetual broker-dealer registration and Huang’s registrations as an agent of Perpetual, as well as the assessment of civil monetary penalties against Perpetual and Huang, pursuant to N.J.S.A. 49:3-70.1, is in the public interest and necessary for the protection of investors.

WHEREFORE, based upon the above, the Bureau Chief makes the following findings:

1. That Respondents engaged in the acts and practices set forth above;
2. That such acts and practices violate N.J.S.A. 49:3-54, N.J.S.A. 49:3-56, N.J.S.A. 49:3-58(a)(2)(ii), N.J.S.A. 49:3-58(a)(2)(vi), and N.J.S.A. 49:3-59(b) of the Securities Law, as well as the applicable Regulations thereunder;
3. That for the reasons stated above, the revocation of the broker-dealer registration of Perpetual and the registrations of Huang and Xu as agents of Perpetual, and the assessment of civil monetary penalties against each Respondent, is in the public interest.

DEMAND FOR RELIEF

WHEREFORE, the Bureau Chief hereby demands:

1. Revocation of the broker-dealer registration of Perpetual Securities, Incorporated, as of the date of this Order, pursuant to N.J.S.A. 49:3-58;
2. Revocation of the agent registrations of Cathy Y. Huang and Youwei Paul Xu as of the date of this Order, pursuant to N.J.S.A. 49:3-58; and
3. The assessment of civil monetary penalties against Respondents, pursuant to N.J.S.A. 49:3-70.1 of not more than \$10,000 for the first violation, not more than \$20,000 for a second violation and not more than \$20,000 for each subsequent violation against Perpetual Securities, Inc., Cathy Y. Huang and Youwei Paul Xu.

DATED: Oct 19, 2004

BY: Franklin L. Widmann

Franklin L. Widmann
Chief, Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to N.J.S.A. 49:3-58(c) of the Uniform Securities Law (1997), "[t]he bureau chief, for good cause shown, may by order summarily postpone, suspend, revoke or deny any registration, pending final determination of any proceeding under this section. Upon entry of the order, the bureau chief shall promptly notify the applicant or registrant, . . . that the order has been entered and of the reasons therefor." Furthermore, pursuant to N.J.S.A. 49:3-58 (c)(1), "[t]he bureau chief shall entertain on no less than three days notice a written application to lift the summary postponement, suspension or revocation on written application . . . but need not, hold a hearing and hear testimony, but shall provide to the applicant or registrant a written statement of the reasons for the summary postponement, suspension or revocation."

The applicant shall have up to 15 days to respond to the Bureau Chief in the form of a written answer and written request for a hearing. The written answer must specifically address each of the allegations set forth in the Order. A general denial is unacceptable. At any hearing involving this matter, an individual respondent may appear on his/her own behalf or be represented by an attorney.

Orders issued pursuant to this subsection to suspend or revoke any registration shall be subject to an application to vacate upon 10 days notice, and a preliminary hearing on the order to suspend or revoke any registration shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the order shall toll the time for filing an answer and written request for a hearing.

If an applicant or registrant fails to respond by filing a written answer and request for a hearing with the Bureau Chief within the 15 day prescribed period, the registrant shall have waived the opportunity to be heard and the order shall remain in effect until modified or vacated.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law (1997) provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action revoking your registration and the right to seek and obtain civil penalties in an administrative action, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69.

You are further advised that the entry of the relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.